

## MINUTES

### ALCOHOL AND TOBACCO COMMISSION

SEPTEMBER 2, 2008

#### CALL TO ORDER/NOTING OF QUORUM

Chairman Heath called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Johnson, Commissioner Sturtz and Commissioner Guthrie. Also in attendance were Executive Secretary Choe, Superintendent Huskey, Captain Miles and Captain Dietchley.

Deb Scott and C. Vicery of IABR, Nicole Upano, and Brad Klopfenstein of ILBA were present as observers.

#### DISPOSITION OF MINUTES

Commissioner Sturtz moved to approve the minutes that were submitted for the August 19, 2008 meeting. Motion seconded by Commissioner Guthrie and it was unanimously approved.

#### HEARING JUDGE'S RECOMMENDATIONS

PAD FORMS – Vice Chairman Johnson moved to approve the parties agreed disposition forms that were submitted for the September 2, 2008 meeting. Motion seconded by Commissioner Guthrie and it was unanimously approved.

DL57-23121 GASAMERICA SERVICES, INC. – Hearing Judge Choe stated this was a recommended denial by the Noble County Local Board and an upholding of that denial by the Commission. The applicant filed a timely notice of appeal and the matter was set for hearing. The Hearing Judge now tenders her Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Vice Chairman Johnson moved to uphold the Hearing Judge's recommendation and overturn the original denial and approve the new permit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

#### CONSIDERATION OF APPLICATIONS

I incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by said staff with the authority of the Commission, and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

I incorporate by reference these lists of permit applications for a new permit or application for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners and

hereby move for approval of same and inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

I incorporate by reference these lists of permit applications for catering and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

I incorporate by reference these lists of permits to be placed in escrow for not more than one year, which have been reviewed and recommended by a Commissioner as appropriate for first or second year escrow and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

Five hundred four (504) renewals approved, thirty-three (33) new and/or transfer permits approved, nine (9) permits approved for catering, one (1) permit approved for first year escrow, three (3) permits approved for second year escrow, two (2) permit approved for third year escrow, two (2) permits approved for fourth year escrow and one (1) permit approved for fifth year escrow.

### **RENEWAL LETTERS AND WAIVER OF FEES**

Vice Chairman Johnson moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Motion seconded by Commissioner Sturtz and it was unanimously approved.

### **APPLICATIONS FOR DISCUSSION**

RR79-22942 ACE ENTERTAINMENT GROUP, INC. – Chairman Heath noted this is a type 112 renewal application with the local board voting three (3) to zero (0) to disapprove.

Commissioner Guthrie moved to uphold the local board's recommendation and deny the renewal. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

DL85-24276 CRYSTAL FLASH PETROLEUM, LLC – Chairman Heath noted this is a new type 115 application with the local board voting three (3) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL85-24275 CRYSTAL FLASH PETROLEUM, LLC – Chairman Heath noted this is a new type 115 application with the local board voting three (3) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

DL57-24174 HERDRICH PETROLEUM CORPORATION – Chairman Heath noted this is a new type 115 application with the local board voting two (2) to two (2).

Commissioner Guthrie stated the two local board members that voted to deny the permit felt the store's premises is too close to the school and kids buy their snacks at that store. The Excise officer who sits on the board voted to approve the permit.

Commissioner Guthrie moved to approve the new permit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

RR17-10051 NORTHWAY TAVERN, LLC – Chairman Heath noted this is a type 210 renewal application with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the renewal. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL82-24043 C.E.TAYLOR OIL, INC. – Chairman Heath noted this is a new type 104 application with the local board voting three (3) to zero (0) to disapprove.

Commissioner Guthrie stated the local board cited the community doesn't desire these services and the permit would have a negative impact on other businesses as reason for denial of this permit.

Commissioner Guthrie moved to uphold the local board's recommendation and deny the new permit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

DL49-23611 ARSH GAS & FOOD MART – Chairman Heath noted this is a new type 115 application. This has been continued since 1-7-08.

Commissioner Guthrie stated this applicant has not been able to receive clearance from zoning.

Commissioner Guthrie moved to show this application withdrawn. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR18-02644 CJ'S NEIGHBORHOOD SPORTS BAR AND RR18-18265 BREAKER'S BILLIARDS – Commissioner Guthrie noted these two permits are involved in a lawsuit. It appears that the current owner has possibly sold the permits to two (2) different parties. The Commissioner stated he feels that the Commission should let the suit play out before making a decision on who is entitled to these permits.

Commissioner Guthrie moved to remand these transfer applications to the local board, pending outcome of the lawsuit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

## **INACTIVE FILES**

PERMITS MADE INACTIVE – Vice Chairman Johnson moved to make seventeen (17) permits inactive. All seventeen (17) permits are not subject to auction. Motion seconded by Commissioner Sturtz and it was unanimously approved.

## **OLD BUSINESS**

No Old Business

## **NEW BUSINESS**

RR45-23241, RR45-23240, RR45-23228, RR45-23227 CEDAR LAKE VENTURES – Commissioner Guthrie noted these permits were made inactive because of inattention to their renewals, due to unforeseen problems with their attorneys. The original attorney died suddenly and the attorney who replaced him also died unexpectedly. Therefore, through no fault of the permittee, the renewals were not submitted.

Commissioner Guthrie moved to reinstate these permits. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

## **POLICY DETERMINATIONS**

No Policy Determinations

## **ANNOUNCEMENTS**

No Announcements

## **ADJOURNMENT**

Commissioner Sturtz moved to adjourn the meeting. Motion seconded by Commissioner Guthrie and it was unanimously approved.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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DAVE HEATH, CHAIRMAN

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DAVID JOHNSON, VICE CHAIR

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DALE STURTZ, COMMISSIONER

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FRANK GUTHRIE, COMMISSIONER